Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

IAN J REYNOLDS MD
450 MEDICAL CENTER BLVD #206
WEBSTER TX 77598

Respondent Name
PACIFIC INDEMNITY CO

Carrier's Austin Representative Box
Box Number 17

MFDR Tracking Number
M4-11-2565-01

MFDR Date Received
MARCH 29, 2011

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Surgery was precerted for the 2 codes that were submitted. Secondary code was paid but not primary code. Insurance company states operative report does not support CPT description 28293. CPT description states resection of joint with implant. Dr. Reynolds operative report indicates same. Per phone with Corvel they state additional diagnosis for impant is needed, and since operative report states non-union a repair code should be used. Dr. Reynolds sates, Repair of non-union is not what was done. The code we are billing is correct. RESECTION of joint with implant. The EOB states 'treats a bunion of the foot by removing the joint of the big toe and replacing it with an artificial implant.' Dr. Reynolds is not treating a Bunion but the description of the procedure 'removing joint & replacing with artificial implant does meet the description, therefore this is the only appropriate code. EOB also states services not documented. Operative report clearly states insertion of implant. CPT description also states same resection of joint with implant. Pre-authorization was obtained for this code & was approved for medical necessity, therefore it should be paid. The services are documented. The bill review company just needs to have someone review the claim that is familiar with the services provided."

Amount in Dispute: $2547.33

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "It is unclear why the provider continues to assert that these codes were preauthorized as medically necessary. Preauthorization is based on the services requested and not the CPT codes. Additionally, the code in dispute was never denied for lack of preauthorization or medical necessity." "It appears that the HCP believes that since he performed a portion of the description for CPT 29823 that he should be reimbursed as if he performed the procedure in full as defined. This is not correct. By the HCP's own admission he did not treat a bunion of the foot as described in the code billed. According to the operative report submitted, the HCP performed ***a removal of hardware, atrophic nonunion, left first metatarsophalangeal joint and insertion of KMI implant of left mirst metatarsophalangeal joint***. This procedure would be more accurately reflected by billing CPT code 28322 which Encoder defines as , 'Repair, nonunion or malunion; metatarsal, with or without bone graft (includes obtaining graft)'." "In summary, Corvel feels that the original audit, and subsequesnt re-evalaution, was done correctly and consistently; therefore, no additional payment is recommended at this time."

Response Submitted by: Downs Stanford, P.C., 2001 Bryan Street, Suite 4000, Dallas, TX 75201

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 9, 2010	CPT Code 28293-59	$2547.33	$1,772.08

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

   Explanation of benefits dated October 31, 2010
   - 128-Please re-submit with appropriate CPT-4 Code.
   - 59-Allowance based on Multiple Surgery Guidelines.
   - B12-Services not documented.
   - The operative report does not support CPT description 28293 (The physician treats a bunion of the foot by removing the joint of the big toe and replacing it with an artificial implant).

   Explanation of benefits dated December 6, 2010
   - 128-Please re-submit with appropriate CPT-4 Code.
   - 59-Allowance based on Multiple Surgery Guidelines.
   - B12-Services not documented.
   - 193-Original payment decision maintained.
   - 29823 was not denied for no preauth as indicated in your rebuttal letter. These services were not documented.

Issues

1. Does the documentation support billing of CPT code 28293?
2. Is the requestor entitled to reimbursement?

Findings

1. The respondent denied reimbursement for CPT code 28293-59 based upon reason code "B12-Services not documented"; The operative report does not support CPT description 28293 (The physician treats a bunion of the foot by removing the joint of the big toe and replacing it with an artificial implant); and29823 was not denied for no preauth as indicated in your rebuttal letter. These services were not documented.

   CPT code 29875 is defined as "Correction, hallux valgus (bunion), with or without sesamoidectomy; resection of joint with implant."

   The respondent states in the position summary that "This procedure would be more accurately reflected by billing CPT code 28322 which Encoder defines as , 'Repair, nonunion or malunion; metatarsal, with or without bone graft (includes obtaining graft)'."

   The operative report indicates that claimant underwent "Removal of hardware, atrophic nonunion, left first metatarsophalangeal joint; and insertion of KMI implant of left first metatarsophalangeal joint."
   The Division finds that the operative report supports billing of CPT code 28293-59, and reimbursement is recommended.

2. Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.
   (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is $52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is $66.32.

   (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual

percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of $50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the $51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2010 DWC conversion factor for this service is 68.19.

Review of Box 32 on the CMS-1500 the services were rendered in zip code 77539, which is located in Galveston County. The Medicare conversion factor for Galveston County is 36.8729.

The Medicare participating amount for code 28293 in Galveston County is $958.23.

Using the above formula, the MAR is $1,772.08. The respondent paid $0.00; therefore,the requestor is due $1,772.08.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $1,772.08.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $1,772.08 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

		7/26/2012
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.